

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kyle J. Lindstrom *et al.*
Serial No.: 10/595,230
Confirmation No.: 5170
Filed: March 28, 2006
For: ALKOXY SUBSTITUTED IMIDAZOQUINOLINES
Examiner: Rita J. Desai
Art Unit: 1625

DECLARATION OF BRYON A. MERRILL UNDER 37 C.F.R. § 1.132

I, Bryon A. Merrill, declare that:

1. I am an inventor of the subject matter disclosed and claimed in U.S. Patent Application, Serial No. 10/595,230, filed March 28, 2006, entitled "ALKOXY SUBSTITUTED IMIDAZOQUINOLINES" (the '231 application).
2. This Declaration is presented for the purpose of removing from consideration by the Examiner a reference by Lindstrom *et al.*, published PCT application, WO 2005/020999, filed August 27, 2004 and published March 3, 2005 (the '999 publication). The present Declaration is presented in accordance with *In re Katz*, 687 F.2d 450, 215 USPQ 14 (CCPA 1982) and establishes that the allegedly anticipatory material in the '999 publication was not invented by another.
3. Kyle J. Lindstrom, Chad A. Haraldson, Michael J. Rice, Tushar Kshirsagar, Philip D. Heppner, Joshua R. Wurst, Shri Niwas, Sarah C. Johannessen, and I are the inventors on the instant application.
4. Hugues Martin, Kyle J. Lindstrom, Michael J. Rice, Joshua R. Wurst, Chad A. Haraldson, Tushar Kshirsagar, Philip D. Heppner, Shri Niwas, George W. Griesgraber, Matthew R. Radmer and I are the inventors on the '999 publication.

5. Huges Martin, George W. Griesgraber, and Matthew R. Radmer are co-inventors on the '999 publication but are not inventors of the claimed invention in the '230 application.

6. Martin, Griesgraber, and Radmer did not contribute to the invention claimed in the '230 patent.

7. I, Bryon A. Merrill, declare that all statements made herein of my own knowledge are true and that these statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like are made punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the U.S.C. and that such willful, false statements may jeopardize the validity of the application or any patents that may issue thereon.

Dated: 10-28-2009


Bryon A. Merrill